

Economic Development, Trade & Banking Committee

**Tuesday, October 18, 2005
9:00 am – 10:30 am
306 HOB**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Economic Development, Trade & Banking Committee

Start Date and Time: Tuesday, October 18, 2005 09:00 am

End Date and Time: Tuesday, October 18, 2005 10:30 am

Location: 306 HOB

Duration: 1.50 hrs

Consideration of the following bill(s):

HB 37 Security of Consumer Credit Report Information by Adams

Presentation by Don Saxon, Director of the Office of Financial Regulation, discussing OFR activities and 2006 legislative issues.

Presentation by Fred Martin, Florida Economic Development Council, on the Economic Development Transportation Fund.

NOTICE FINALIZED on 10/06/2005 16:21 by GOLDING.SARA



The Florida House of Representatives

Commerce Council

Economic Development, Trade & Banking Committee

Allan G. Bense
Speaker

Gus Michael Bilirakis
Chair

Agenda **October 18, 2005**

- I. Roll Call**
- II. Welcome and Opening Remarks**
- III. Consideration of the following bill :**

HB 37 – Security of Consumer Credit Report Information
by Representative Adams
- IV. Presentations:**
Office of Financial Regulation Activities and 2006 legislative issues
 - Don Saxon, Director of the Office of Financial Regulation
The Economic Development Transportation Fund
 - Ted Clem, Chairman of the Florida Economic Development Council and Executive Director of the Bay County Economic Development Alliance
- V. Adjourn**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 37 Security of Consumer Credit Report Information
SPONSOR(S): Adams and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Economic Development, Trade & Banking Committee</u>		Sheheane <i>GHS</i>	Carlson <i>MWC</i>
2) <u>Agriculture Committee</u>			
3) <u>Civil Justice Committee</u>			
4) <u>Commerce Council</u>			
5) _____			

SUMMARY ANALYSIS

The bill allows a consumer to place a “security freeze” on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency. The security freeze prohibits the consumer credit reporting agency from releasing the consumer’s credit report or any information contained within the report without the authorized consent of the consumer.

The security freeze lasts until the consumer requests that it be removed or temporarily lifted. The bill does not prohibit a consumer credit reporting agency from informing a third party that a particular consumer credit report has been placed under a security freeze.

The bill allows a consumer credit reporting agency to charge a fee when a consumer elects to place, temporarily lift, or remove a security freeze on his or her credit report. The bill disallows a consumer credit reporting agency to charge a fee to a victim of identity theft.

The bill creates a new cause of action for any person who is aggrieved by violations of the provisions of this act for the recovery of actual and consequential damages, court costs, and attorney's fees.

The bill becomes effective on July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty- The bill allows a consumer to protect his or her personal information by placing a security freeze on his or her credit report and to remove, temporarily lift, or allow a specific third party access to their personal credit information at his or her discretion.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Fraud Alert

The federal Fair Credit Reporting Act¹ (FCRA) provides two different types of fraud alerts that consumers may use to protect themselves against identity theft. Fraud alerts are designed to protect a consumer's private credit information if he or she suspects someone is attempting to open credit accounts in the consumer's name. When a business sees the alert on a consumer's credit report, the business must verify the consumer's identity before issuing credit. As part of the verification process, the business may try to contact the consumer directly.

A one-call fraud alert allows a consumer, or an individual acting on behalf of a consumer, who asserts in good faith that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, to request that a consumer reporting agency include a fraud alert on the file of that consumer and also provide that alert along with any credit score generated with that file for a period of 90 days unless the consumer requests that the alert be removed before the end of that time period. The consumer reporting agency must also refer the information regarding the fraud alert to each of the other consumer reporting agencies as described in current law.

An extended alert is provided for a consumer wishing to place an alert on his or her file for a period of up to seven years unless the consumer wishes to remove the alert before the end of that time period. During the first five years of an extended fraud alert, a consumer reporting agency must exclude the consumer from any list of consumers prepared by a consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction not initiated by the consumer. A consumer may request that the exclusion be rescinded before the end of the five year time period. The consumer reporting agency must also refer the information regarding the extended fraud alert to each of the other consumer reporting agencies as described in current law.

The FCRA requires that in any case where a consumer reporting agency includes a fraud alert in the file of a consumer, the consumer credit reporting agency must disclose to the consumer that he or she may request two free copies of the file on the consumer during the 12 month period beginning on the date in which the fraud alert was included in the file.

Fraud alerts do not prevent a credit report from being issued.

Blocking Information Resulting from Identity Theft

The FCRA provides that a consumer credit reporting agency must block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, no later than 4 business days after the receipt by such agency of: appropriate proof of the identity of the consumer; a copy of an identity theft report; the identification of such

¹ 15 U.S.C. ss. 1681 et seq.

information by the consumer; and a statement by the consumer that the information is not related to any transaction by the consumer.

A consumer credit reporting agency is to promptly notify the furnisher of any information that has been identified as information resulting from an alleged identity theft that the information may be the result of identity theft; that an identity theft report has been filed; that a block has been requested; and the effective dates of the block.

A consumer credit reporting agency may decline to block or rescind any block if the consumer credit reporting agency reasonably determines that: the information was blocked in error; a block was requested by the consumer on the basis of material misrepresentation of fact by the consumer relevant to the request to block; or the consumer obtained possession of goods, services, or money as a result of the blocked transaction or transactions.

States Offering a Security Freeze

Currently, California, Texas, Louisiana, Vermont, Washington, Nevada, Connecticut, Illinois, Maine, and Colorado offer consumers the right to freeze their credit reports. Texas, Vermont, Washington, and Illinois only offer the option to those consumers affected by identity theft. Florida does not provide for any freeze or block on consumer credit information.

This bill is drawn from language contained in California's and New Jersey's legislation.

Proposed Changes

The bill allows a consumer to place a "security freeze" on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency. The security freeze prohibits the consumer credit reporting agency from releasing the consumer's credit report or any information contained within the report without the authorized consent of the consumer. The security freeze lasts until the consumer requests that it be removed. The bill does not prohibit a consumer credit reporting agency from informing a third party that a particular consumer credit report has been placed under a security freeze.

The bill requires a consumer credit reporting agency to place a security freeze on a consumer's credit report no later than five business days after receiving the written request and requires the consumer credit reporting agency to send a written confirmation of the security freeze to the consumer within 10 business days of instituting the security freeze. A consumer credit reporting agency must remove the security freeze within three days of notification from the consumer. The bill requires the consumer credit reporting agency to provide the consumer with a personal identification number or password to be used by the consumer in the case where a consumer may wish to authorize a specific party access to his or her credit information at any point during the security freeze.

If the consumer wishes to allow a specific party to access his or her credit information during a security freeze, he or she must contact the consumer credit reporting agency, request that the freeze be temporarily lifted, and provide: proper identification as determined by the consumer credit reporting agency; the personal identification number or password previously provided to the consumer by the consumer credit reporting agency; and the proper information regarding the third party who is to receive the credit report, or the period of time for which the report shall be made temporarily available to those authorized to access the credit report.

The bill requires a consumer credit reporting agency to lift the security freeze within three days of receiving a written request from a consumer to temporarily lift the security freeze and allows a consumer credit reporting agency to develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a request from a consumer to temporarily lift a freeze on a credit report.

The bill allows a third party requesting access to a consumer credit report to treat the application as incomplete if the consumer has not authorized a temporary lifting of the security freeze specifically for the third party requesting access or for the period of time in which the request is made.

Exemptions

The bill provides the following exemptions for use of a credit report by certain entities regardless of a security freeze being placed on a consumer's credit report:

- Any person, entity, or assignee of a financial obligation owed by a consumer to the person or entity under certain circumstances;
- A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted for purposes of facilitating the extension of credit or other permissible use;
- Any state or local agency, law enforcement agency, trial court, or private collection agency acting pursuant to a court order, warrant, or subpoena;
- A child support agency acting pursuant to Title IV-D of the Social Security Act;
- The Florida Department of Health or its agents or assigns acting to investigate Medicaid fraud;
- The Department of Financial Services or its agents or assigns acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities;
- The use of credit information for the purposes of prescreening as provided for by the FCRA.

In addition, check services companies and demand deposit account information services companies are not required to place a freeze on a consumer's credit report. Resellers of consumer credit information are also exempt, however they must honor a security freeze placed on a consumer credit report.

Fees

The bill allows a consumer credit reporting agency to charge a fee when a consumer elects to place, temporarily lift, or remove a security freeze on his or her credit report. The bill disallows a consumer credit reporting agency to charge a fee to a victim of identity theft. There is no cap on the amount of the fee.

Consumer Information

The bill does not allow a consumer credit reporting agency to change a consumer's official information in a credit report when a security freeze is in effect without sending a written confirmation of the change to the consumer within 30 days of making the change. "Official information" includes the consumer's name, address, date of birth, and social security number. In the case of an address change, the bill requires the written confirmation to be sent to the new address and the former address of the consumer.

The bill provides that a written confirmation is not required for technical modifications to a consumer's official information including name and street abbreviations, complete spellings, or transposition of numbers or letters.

Cause of Action

The bill creates a new cause of action for any person who is aggrieved by violations of the provisions of the bill for the recovery of actual and consequential damages, court costs, and attorney's fees.

Disclosure

The bill requires a consumer credit reporting agency to include a written summary of all rights under the bill to a consumer when sending the consumer a written disclosure. The bill details the information that

must be included in the written summary of consumer rights, including the right to civil action. Consumer credit reporting agencies which maintain consumer credit reports on a nationwide basis must provide a toll free telephone number for the consumer to use if he or she wishes to communicate with the consumer credit reporting agency.

C. SECTION DIRECTORY:

Section 1. Creates s. 501.005, F.S., authorizing and providing the procedures for a consumer to place a security freeze on his or her credit report. Provides definitions pertaining to a credit report security freeze. Provides procedures for temporary suspension and removal of a security freeze on a credit report. Provides procedures to allow temporary access to a credit report under a security freeze. Authorizes credit reporting agencies to charge a fee to initiate, temporarily lift, or remove a security freeze and disallows such fees for victims of identity theft. Provides exemptions for certain entities. Provides civil remedy. Provides requirements for written disclosure.

Section 2. Provides that the act will take effect on July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill allows consumer credit reporting agencies to charge a reasonable fee any time a consumer chooses to place, temporarily lift, or remove a freeze from his or her credit report.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Page 6, lines 152 and 154 refer to the Department of Health with respect to Medicaid fraud investigations and the Department of Financial Services with respect to recovery of delinquent taxes. The Agency for Health Care Administration is responsible for investigating Medicaid fraud and the Department of Revenue is responsible for collecting delinquent taxes.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A

1 A bill to be entitled

2 An act relating to security of consumer credit report
3 information; creating s. 501.005, F.S.; authorizing a
4 consumer to place a security freeze on his or her credit
5 report; defining "consumer credit report security freeze";
6 providing procedures and requirements with respect to the
7 placement, temporary suspension, and removal of a security
8 freeze on a consumer credit report; authorizing a consumer
9 to allow specified temporary access to his or her credit
10 report during a security freeze; providing procedures with
11 respect to such temporary access; providing for removal of
12 a security freeze when a consumer's credit report was
13 frozen due to a material misrepresentation of fact by the
14 consumer; providing applicability; authorizing consumer
15 credit reporting agencies to charge a fee to initiate,
16 remove, or temporarily lift a security freeze; disallowing
17 such fee for victims of identity theft; restricting the
18 change of specified information in a consumer credit
19 report when a security freeze is in effect; specifying
20 applicability with respect to certain consumer credit
21 reporting agencies; specifying entities that are exempt
22 from placing a security freeze on a consumer credit
23 report; providing for civil remedy; providing requirements
24 with respect to written disclosure by a consumer credit
25 reporting agency of procedures and consumer rights
26 associated with a security freeze; providing an effective
27 date.
28

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 501.005, Florida Statutes, is created to read:

501.005 Consumer credit report security freeze.--

(1) A consumer may elect to place a security freeze on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency. For purposes of this section, "consumer credit report security freeze" or "security freeze" means a notice placed in a consumer's credit report, at the request of the consumer and subject to the exceptions specified in this section, that prohibits the consumer credit reporting agency from releasing the consumer's credit report or any information contained within the credit report without the express authorization of the consumer. When a security freeze is in place, information from a consumer's credit report shall not be released to a third party without prior express authorization from the consumer. This act does not prevent a consumer credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

(2) A consumer credit reporting agency shall place a security freeze on a consumer's credit report no later than 5 business days after receiving a written request from the consumer.

(3) The consumer credit reporting agency shall send a written confirmation of the security freeze to the consumer within 10 business days of instituting the security freeze and

57 shall provide the consumer with a unique personal identification
58 number or password to be used by the consumer when providing
59 authorization for the limited release of his or her credit
60 report to a specific party during the security freeze or for a
61 designated period of time during the security freeze as provided
62 in subsection (4).

63 (4) If the consumer wishes to allow his or her credit
64 report to be accessed by a specific party or for a designated
65 period of time while a security freeze is in effect, he or she
66 shall contact the consumer credit reporting agency, request that
67 the freeze be temporarily lifted, and provide the following:

68 (a) Proper identification as determined by the consumer
69 credit reporting agency.

70 (b) The unique personal identification number or password
71 provided by the credit reporting agency pursuant to subsection
72 (3).

73 (c) The proper information regarding the third party who
74 is to receive the credit report or the period of time for which
75 the report shall be made temporarily available to those
76 authorized to access the credit report.

77 (5) A consumer credit reporting agency that receives a
78 request from a consumer to temporarily lift a freeze on a credit
79 report pursuant to subsection (4) shall comply with the request
80 no later than 3 business days after receiving the request.

81 (6) A consumer credit reporting agency may develop
82 procedures involving the use of telephone, fax, the Internet, or
83 other electronic media to receive and process a request from a

84 consumer to temporarily lift a freeze on a credit report
85 pursuant to subsection (4) in an expedited manner.

86 (7) A consumer credit reporting agency shall remove or
87 temporarily lift a security freeze placed on a consumer's credit
88 report only in the following instances:

89 (a) Upon consumer request, pursuant to subsection (4) or
90 subsection (10).

91 (b) If the consumer's credit report was frozen due to a
92 material misrepresentation of fact by the consumer.

93
94 If a consumer credit reporting agency intends to remove a
95 security freeze on a consumer's credit report pursuant to this
96 subsection, the consumer credit reporting agency shall notify
97 the consumer in writing prior to removing the security freeze.

98 (8) A third party requesting access to a consumer credit
99 report on which a security freeze is in effect in connection
100 with an application for credit or any other use may treat the
101 application as incomplete if the consumer has not authorized a
102 temporary lifting of the security freeze for the specific third
103 party requesting access or for the period of time during which
104 the request is made.

105 (9) If a consumer requests a security freeze, the consumer
106 credit reporting agency shall disclose to the consumer all
107 information relevant to the process of instituting a security
108 freeze and the process for temporarily lifting the security
109 freeze to allow access to information from the consumer's credit
110 report by a specific party or for a limited period of time while
111 the security freeze is in effect.

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112 (10) A security freeze shall remain in place until the
 113 consumer requests that the security freeze be removed. A
 114 consumer credit reporting agency shall remove a security freeze
 115 within 3 business days of receiving a request for removal from
 116 the consumer, who, upon making the request for removal, must
 117 provide the following:

118 (a) Proper identification as determined by the consumer
 119 credit reporting agency.

120 (b) The unique personal identification number or password
 121 provided by the credit reporting agency pursuant to subsection
 122 (3).

123 (11) A consumer credit reporting agency must require
 124 proper identification of any person making a request to place or
 125 remove a security freeze.

126 (12) The provisions of this section do not apply to the
 127 use of a consumer credit report by the following persons or
 128 entities or for the following reasons:

129 (a) A person or entity, or a subsidiary, affiliate, or
 130 agent of the person or entity, or an assignee of a financial
 131 obligation owed by the consumer to the person or entity, or a
 132 prospective assignee of a financial obligation owed by the
 133 consumer to the person or entity in conjunction with the
 134 proposed purchase of the financial obligation, with which the
 135 consumer has or had prior to assignment an account or contract,
 136 including a demand deposit account, or to whom the consumer
 137 issued a negotiable instrument, for the purposes of reviewing
 138 the account or collecting the financial obligation owed for the
 139 account, contract, or negotiable instrument. For purposes of

140 this paragraph, "reviewing the account" includes activities
141 related to account maintenance, monitoring, credit line
142 increases, and account upgrades and enhancements.

143 (b) A subsidiary, affiliate, agent, assignee, or
144 prospective assignee of a person to whom access has been granted
145 for purposes of facilitating the extension of credit or other
146 permissible use.

147 (c) Any state or local agency, law enforcement agency,
148 trial court, or private collection agency acting pursuant to a
149 court order, warrant, or subpoena.

150 (d) A child support agency acting pursuant to Title IV-D
151 of the Social Security Act.

152 (e) The Florida Department of Health or its agents or
153 assigns acting to investigate Medicaid fraud.

154 (f) The Department of Financial Services or its agents or
155 assigns acting to investigate or collect delinquent taxes or
156 unpaid court orders or to fulfill any of its other statutory
157 responsibilities.

158 (g) The use of credit information for the purposes of
159 prescreening as provided for by the federal Fair Credit
160 Reporting Act.

161 (13) Nothing in this act shall prevent a consumer credit
162 reporting agency from charging a reasonable fee to a consumer
163 who elects to place, remove, or temporarily lift a security
164 freeze on a consumer credit report, except that a consumer
165 credit reporting agency may not charge a fee to a victim of
166 identity theft who has submitted a valid police report, or a

167 valid investigative report with the Department of Highway Safety
168 and Motor Vehicles, that alleges such a violation.

169 (14) If a security freeze is in effect, a consumer credit
170 reporting agency shall not change any of the following official
171 information in a consumer credit report without sending a
172 written confirmation of the change to the consumer within 30
173 days of the change being posted to the consumer's file:

174 (a) Name.

175 (b) Address.

176 (c) Date of birth.

177 (d) Social security number.

178
179 Written confirmation is not required for technical modifications
180 of a consumer's official information, including name and street
181 abbreviations, complete spellings, or transposition of numbers
182 or letters. In the case of an address change, the written
183 confirmation shall be sent to both the new address and to the
184 former address.

185 (15) The provisions of this section do not apply to a
186 consumer credit reporting agency that acts only as a reseller of
187 credit information by assembling and merging information
188 contained in the database of another consumer credit reporting
189 agency or multiple consumer credit reporting agencies and does
190 not maintain a permanent database of credit information from
191 which new consumer credit reports are produced. However, a
192 consumer credit reporting agency shall honor any security freeze
193 placed on a consumer credit report by another consumer credit
194 reporting agency.

195 (16) The following entities are not required to place a
196 security freeze on a consumer credit report:

197 (a) A check services company, which issues authorizations
198 for the purpose of approving or processing negotiable
199 instruments, electronic funds transfers, or similar methods of
200 payment.

201 (b) A demand deposit account information service company,
202 which issues reports regarding account closures due to fraud,
203 substantial overdrafts, automatic teller machine abuse, or
204 similar negative information regarding a consumer to inquiring
205 banks or other financial institutions for use only in reviewing
206 a consumer request for a demand deposit account at the inquiring
207 bank or financial institution.

208 (17) In addition to any other penalties or remedies
209 provided under law, a person who is aggrieved by violation of
210 the provisions of this section may bring a civil action in any
211 court of competent jurisdiction against any person or entity,
212 including a consumer credit reporting agency, for recovery of
213 actual and consequential damages, court costs, and attorney's
214 fees. No provision in this section shall be construed to limit
215 any right or remedy provided under law.

216 (18) Any written disclosure by a consumer credit reporting
217 agency to any consumer pursuant to this section shall include a
218 written summary of all rights the consumer has under this act,
219 and, in the case of a consumer credit reporting agency which
220 compiles and maintains consumer credit reports on a nationwide
221 basis, a toll-free telephone number which the consumer can use
222 to communicate with the consumer credit reporting agency. The

written summary of rights required under this section is
sufficient if it is in substantially the following form:

You have a right to place a "security freeze" on your
credit report, which will prohibit a consumer credit reporting
agency from releasing any information in your credit report
without your express authorization. A security freeze must be
requested in writing by certified mail. The security freeze is
designed to prevent credit, loans, and services from being
approved in your name without your consent. However, you should
be aware that using a security freeze to take control over who
gets access to the personal and financial information in your
credit report may delay, interfere with, or prohibit the timely
approval of any subsequent request or application you make
regarding a new loan, credit, mortgage, insurance, government
services or payments, rental housing, employment, investment,
license, cellular phone, utilities, digital signature, Internet
credit card transaction, or other services, including an
extension of credit at point of sale. When you place a security
freeze on your credit report, you will be provided a personal
identification number or password to use if you choose to remove
the freeze on your credit report or authorize the release of
your credit report to a specific party or for a designated
period of time after the security freeze is in place. To provide
that authorization, you must contact the consumer credit
reporting agency and provide all of the following:

- (1) The personal identification number or password.
- (2) Proper identification to verify your identity.

251 (3) The proper information regarding the third party who
252 is to receive the credit report or the period of time for which
253 the report shall be made available.

254
255 A consumer credit reporting agency must authorize the
256 release of your credit report no later than 3 business days
257 after receiving the above information.

258 A security freeze does not apply to a person or entity, or
259 its affiliates, or collection agencies acting on behalf of the
260 person or entity, with which you have an existing account, that
261 requests information in your credit report for the purposes of
262 reviewing or collecting the account. Reviewing the account
263 includes activities related to account maintenance, monitoring,
264 credit line increases, and account upgrades and enhancements.

265 You have the right to bring a civil action against anyone,
266 including a consumer credit reporting agency, who fails to
267 comply with the provisions of section 501.005, Florida Statutes,
268 which governs the placing of a consumer credit report security
269 freeze on your consumer credit report. This includes the right
270 to bring a civil action against anyone who improperly obtains
271 access to your consumer credit report or information contained
272 within the report or who knowingly or willfully misuses data or
273 information contained within the report during the period of
274 time in which a requested security freeze was in effect or
275 should have been in effect.

276 Section 2. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. 0037

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)

ADOPTED AS AMENDED _____ (Y/N)

ADOPTED W/O OBJECTION _____ (Y/N)

FAILED TO ADOPT _____ (Y/N)

WITHDRAWN _____ (Y/N)

OTHER _____

Council/Committee hearing bill: Economic Development, Trade &
Banking Committee

Representative(s) Adams offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause, and insert:

Section 1. Section 501.005, Florida Statutes, is created
to read:

501.005 Consumer credit report security freeze.--

(1) A consumer may place a security freeze on his or her
consumer credit report by making a request in writing by
certified mail or overnight mail to a consumer credit reporting
agency, or by making a request directly to the consumer credit
reporting agency by telephone or through secure electronic
media. For purposes of this section, "consumer credit report
security freeze" or "security freeze" means a notice placed in a
consumer's credit report that prohibits a consumer credit
reporting agency from releasing the consumer's credit report or
any information contained within the credit report to a third
party without the express authorization of the consumer. This

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

22 section does not prevent a consumer credit reporting agency from
23 advising a third party that a security freeze is in effect with
24 respect to the consumer's credit report.

25 (2) A consumer credit reporting agency shall place a
26 security freeze on a consumer's credit report no later than 5
27 business days after receiving a request from the consumer.

28 (3) The consumer credit reporting agency shall send a
29 written confirmation of the security freeze to the consumer
30 within 5 business days after instituting the security freeze and
31 shall provide the consumer with a unique personal identification
32 number or password to be used by the consumer when providing
33 authorization for the limited release of his or her credit
34 report to a third party during the security freeze or for a
35 designated period of time during the security freeze as provided
36 in subsection (4).

37 (4) A consumer may allow his or her credit report to be
38 accessed by a third party or for a designated period of time
39 while a security freeze is in effect by contacting the consumer
40 credit reporting agency and requesting that the freeze be
41 temporarily lifted. The consumer must provide the following
42 information to the consumer credit reporting agency as part of
43 the request:

44 (a) Proper identification as determined by the consumer
45 credit reporting agency.

46 (b) The unique personal identification number or password
47 provided by the credit reporting agency pursuant to subsection

48 (3).

49 (c) Information identifying the third party who is to
50 receive the credit report or the period of time for which the
51 report shall be made available to a third party.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

52 (5) A consumer credit reporting agency that receives a
53 request from a consumer to temporarily lift a freeze on a credit
54 report pursuant to subsection (4) shall comply with the request
55 no later than 3 business days after receiving the request.

56 (6) A consumer credit reporting agency shall use
57 telephonic communication or any form of secure electronic media
58 to receive and process a request from a consumer pursuant to
59 subsection (4) with the goal of processing a request within 15
60 minutes after receipt of such request.

61 (7) A consumer credit reporting agency shall temporarily
62 lift or remove a security freeze placed on a consumer's credit
63 report only in the following instances:

64 (a) Upon consumer request, pursuant to subsections (4) or
65 (10).

66 (b) If the consumer's credit report was frozen due to a
67 material misrepresentation of fact by the consumer. If a
68 consumer credit reporting agency intends to remove a security
69 freeze on a consumer's credit report pursuant to this paragraph,
70 the consumer credit reporting agency shall notify the consumer
71 in writing prior to removing the security freeze.

72 (8) A third party requesting access to a consumer credit
73 report on which a security freeze is in effect in connection
74 with an application for credit or other permissible use may
75 treat the application as incomplete if the consumer has not
76 authorized a temporary lifting of the security freeze for the
77 third party requesting access or for the period of time during
78 which the request is made.

79 (9) If a consumer requests a security freeze, the
80 consumer credit reporting agency shall disclose to the consumer
81 all information relevant to the process of instituting,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

temporarily lifting, and removing a security freeze and shall include the disclosure required by subsection (16).

(10) A security freeze shall remain in place until the consumer requests that it be removed. A consumer credit reporting agency shall remove a security freeze within 3 business days after receiving a request for removal from the consumer, who, upon making the request for removal, must provide the following:

(a) Proper identification as determined by the consumer credit reporting agency.

(b) The unique personal identification number or password provided by the credit reporting agency pursuant to subsection (3).

(11) The provisions of this section do not apply to the use of a consumer credit report by the following persons or for the following reasons:

(a) A person to whom the consumer owes a financial obligation or a subsidiary, affiliate, or agent of the person, or an assignee of a financial obligation owed by the consumer to the person, or a prospective assignee of a financial obligation owed by the consumer to the person in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owed for the account, contract, or negotiable instrument. For purposes of this paragraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

112 (b) A subsidiary, affiliate, agent, assignee, or
113 prospective assignee of a person to whom access has been granted
114 under this section for purposes of facilitating the extension of
115 credit or other permissible use.

116 (c) A state agency acting within its lawful investigative
117 or regulatory authority.

118 (d) A state or local law enforcement agency acting to
119 investigate a crime or conducting a criminal background check.

120 (e) Any person administering a credit file monitoring
121 subscription service to which the consumer has subscribed.

122 (f) Any person for the purpose of providing a consumer
123 with a copy of the consumer's credit report upon the consumer's
124 request.

125 (g) Pursuant to a court order lawfully entered.

126 (h) The use of credit information for the purposes of
127 prescreening as provided for by the federal Fair Credit
128 Reporting Act.

129 (12) A consumer credit reporting agency shall not charge
130 a consumer a fee to place a security freeze on the consumer's
131 credit report. A consumer credit reporting agency may charge a
132 reasonable fee, not to exceed \$5, to a consumer who elects to
133 remove or temporarily lift a security freeze on his or her
134 consumer credit report. A consumer may be charged a reasonable
135 fee, not to exceed \$5, if the consumer fails to retain the
136 original personal identification number or password provided by
137 the consumer credit reporting agency, and the agency must
138 reissue the personal identification number or password or
139 provide a new personal identification number or password to the
140 consumer.

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Amendment No. (1)

(13) If a security freeze is in effect, a consumer credit reporting agency shall not change any of the following official information in a consumer credit report without sending a written confirmation of the change to the consumer within 30 days after the change is posted to the consumer's file:

(a) Name.

(b) Address.

(c) Date of birth.

(d) Social security number.

Written confirmation is not required for technical corrections of a consumer's official information, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and the former address.

(14) The provisions of this section do not apply to the following entities:

(a) A check services company, which issues authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment.

(b) A demand deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, automatic teller machine abuse, or similar negative information regarding a consumer to inquiring banks or other financial institutions for use only in reviewing a consumer request for a demand deposit account at the inquiring bank or financial institution, as defined in s. 655.005(1)(g) or
(h).

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

171 (c) A consumer credit reporting agency that acts only as
172 a reseller of credit information by assembling and merging
173 information contained in the database of another consumer credit
174 reporting agency or multiple consumer credit reporting agencies
175 and does not maintain a permanent database of credit information
176 from which new consumer credit reports are produced. However, a
177 consumer credit reporting agency shall honor any security freeze
178 placed on a consumer credit report by another consumer credit
179 reporting agency.

180 (15) In addition to any other penalties or remedies
181 provided under law, a person who is aggrieved by a knowing or
182 willful violation of the provisions of this section may bring a
183 civil action in any court of competent jurisdiction against any
184 person or entity, including a consumer credit reporting agency,
185 for recovery of actual and consequential damages, court costs,
186 and attorney's fees.

187 (16) Any written disclosure by a consumer credit
188 reporting agency to any consumer pursuant to this section shall
189 include a written summary of all rights the consumer has under
190 this section, and, in the case of a consumer credit reporting
191 agency which compiles and maintains consumer credit reports on a
192 nationwide basis, a toll-free telephone number which the
193 consumer can use to communicate with the consumer credit
194 reporting agency. The written summary of rights required under
195 this section is sufficient if it is in substantially the
196 following form:

197
198 You have a right to place a "security freeze" on your
199 credit report, which will prohibit a consumer credit reporting
200 agency from releasing any information in your credit report

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

201 without your express authorization. A security freeze must be
202 requested in writing by certified mail or overnight mail to a
203 consumer credit reporting agency, or by making a request
204 directly to the consumer credit reporting agency by telephone or
205 through secure electronic media. The security freeze is designed
206 to prevent credit, loans, and services from being approved in
207 your name without your consent. However, you should be aware
208 that using a security freeze to control access to the personal
209 and financial information in your credit report may delay,
210 interfere with, or prohibit the timely approval of any
211 subsequent request or application you make regarding a new loan,
212 credit, mortgage, insurance, government services or payments,
213 rental housing, employment, investment, license, cellular phone,
214 utilities, digital signature, Internet credit card transaction,
215 or other services, including an extension of credit at point of
216 sale. When you place a security freeze on your credit report,
217 you will be provided a personal identification number or
218 password to use if you choose to remove the freeze on your
219 credit report or authorize the release of your credit report to
220 a third party or for a designated period of time after the
221 security freeze is in place. To provide that authorization, you
222 must contact the consumer credit reporting agency and provide
223 all of the following:

- 224 (1) The personal identification number or password.
225 (2) Proper identification to verify your identity.
226 (3) Information identifying the third party who is to
227 receive the credit report or the period of time for which the
228 report shall be made available to a third party.
229

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

A consumer credit reporting agency must authorize the release of your credit report no later than 3 business days after receiving the above information.

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account, that requests information in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

You have the right to bring a civil action against anyone, including a consumer credit reporting agency, who fails to comply with the provisions of s. 501.005, Florida Statutes, which governs the placing of a consumer credit report security freeze on your consumer credit report. This includes the right to bring a civil action against any person for recovery of your actual and consequential damages, court costs, and attorney's fees caused by a knowing or willful violation of the law.

Section 2. This act shall take effect July 1, 2006.

===== T I T L E A M E N D M E N T =====

Remove the entire title, and insert:

A bill to be entitled

An act relating to security of consumer credit report information; creating s. 501.005, F.S.; authorizing a consumer to place a security freeze on his or her consumer credit report; defining "consumer credit report security freeze"; providing procedures and requirements with

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

260 respect to the placement, temporary suspension, and
261 removal of a security freeze on a consumer credit report;
262 authorizing a consumer to allow specified temporary access
263 to his or her credit report during a security freeze;
264 providing procedures with respect to such temporary
265 access; providing for removal of a security freeze when a
266 consumer's credit report was frozen due to a material
267 misrepresentation of fact by the consumer; providing
268 applicability; prohibiting a consumer credit reporting
269 agency from charging a fee to place a security freeze on a
270 consumer credit report; authorizing consumer credit
271 reporting agencies to charge a fee to remove or
272 temporarily lift a security freeze and to reissue a
273 personal identification number or password; restricting
274 the change of specified information in a consumer credit
275 report when a security freeze is in effect; providing an
276 exemption for certain persons or entities; providing for
277 civil remedy; providing requirements with respect to
278 written disclosure by a consumer credit reporting agency
279 of procedures and consumer rights associated with a
280 security freeze; providing an effective date.

OFFICE OF FINANCIAL REGULATION



Mission

The Office of Financial Regulation is dedicated to safeguarding the private financial interests of the public by licensing, chartering, examining and regulating financial institutions and financial service companies in the State of Florida. The Office strives to protect consumers from financial fraud, while preserving the integrity of Florida's markets and financial service industries.

Office Overview

Don Saxon, Commissioner
Alex Hager, Deputy Commissioner
Linda Charity, Director, Financial Institutions
Rick White, Director, Securities & Finance Regulation
Rob Beitler, General Counsel
Andrea Moreland, Cabinet & Legislative Affairs
Bob Rosenau, Chief, Financial Investigations
Bob Dyar, Inspector General
Kathleen Kight, Research & Planning Administrator
Holly Hinson, Outreach Coordinator

9 Offices

- ✦ Pensacola
- ✦ Jacksonville
- ✦ Orlando
- ✦ Tampa
- ✦ West Palm Beach
- ✦ Fort Lauderdale
- ✦ Fort Myers
- ✦ Miami
- ✦ Tallahassee

Resources

Budget = \$31.8 million	403 FTEs
Financial Institutions - \$9.3 million	110
Securities/Finance - \$15 million	182
Investigations - \$4.1 million	64
Executive Direction - \$3.4 million	47

Responsibilities

- ✦ Regulation of:
 - Depository & nondepository financial institutions & financial service companies
 - Securities firms, branches, agents and offerings
- ✦ Investigation of alleged violations of banking, securities, and finance statutes

Financial Institution Regulation

Enforce Financial Institutions Codes

Bureau of Bank Regulation, District I (North)– examine & supervise state-chartered banks to ensure they operate in a safe & sound manner

Bureau of Bank Regulation, District II (South)– same as District I plus foreign banking organizations & nondeposit trust companies

Bureau of Credit Union Regulation – examine & supervise state-chartered credit unions

Statutes Regulated

- ✦ Chapter 655 – Financial Institutions General
- ✦ Chapter 657 – Credit Unions
- ✦ Chapter 658 – Banks & Trust Companies
- ✦ Chapter 660 – Trust Business
- ✦ Chapter 663 – International Banking
- ✦ Chapter 665 – Associations
- ✦ Chapter 667 – Savings Banks

Financial Institution Regulation

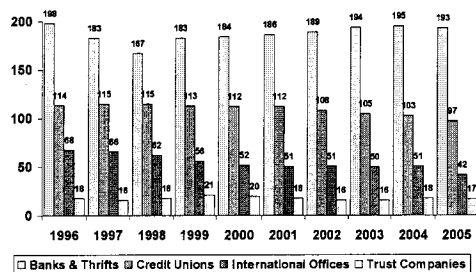
Mission

- ✦ Provide for and promote public confidence in state financial institutions
- ✦ Protect the interests of the public in proper conduct of state financial institutions

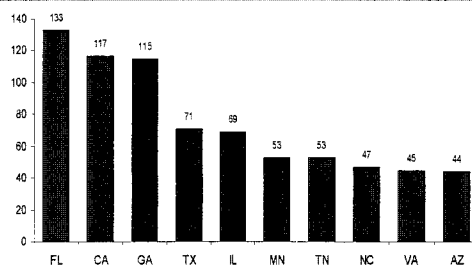
Number of Institutions

- ✦ 97 Credit Unions
 - ✦ 193 Banks
 - ✦ 42 Foreign Banks
 - ✦ 17 Trust Companies
- Total Assets exceed
\$92.5 Billion

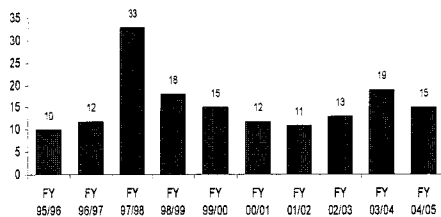
NUMBER OF STATE FINANCIAL INSTITUTIONS



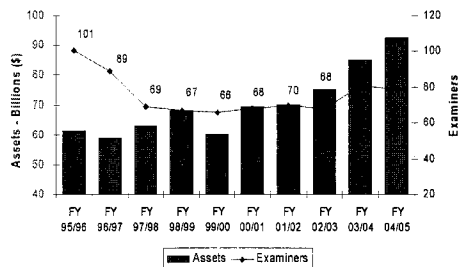
NEW BANKS OPENED (1996 to Present)



DE NOVO APPLICATIONS RECEIVED



EXAMINERS COMPARED TO ASSETS REGULATED



Securities & Finance

Bureau of Securities Regulation – protect investing public from investment & securities fraud while facilitating capital formation in the State

Bureau of Finance Regulation - regulate non-depository financial service companies & related industries; protect consumers from illegal financial activities

Bureau of Regulatory Review - review all applications to conduct business as a financial service company or securities firm; review license applications for individuals; and impose licensing restrictions or deny licensure based on findings

Statutes Regulated

- ✦ Chapter 494 – Mortgage Brokerage & Lending
- ✦ Chapter 516 – Consumer Finance Lending
- ✦ Chapter 517 – Securities & Investor Protection
- ✦ Chapter 520 – Retail Installment Lending
- ✦ Chapter 537 – Title Loan Lenders
- ✦ Chapter 559 – Consumer & Commercial Collection Agencies
- ✦ Chapter 560 – Money Transmitters

Securities & Finance

Number of Regulated Entities

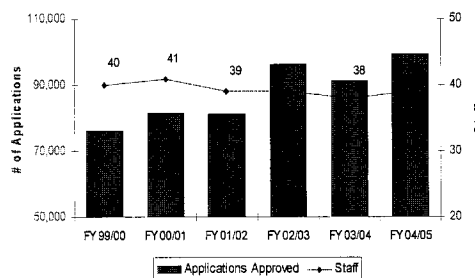
- 241,499 securities agents, 6,808 securities firms & 9,065 branches
- 77,184 mortgage brokers, lenders & businesses
- 32,883 money transmitters
- 1,105 deferred presentment providers

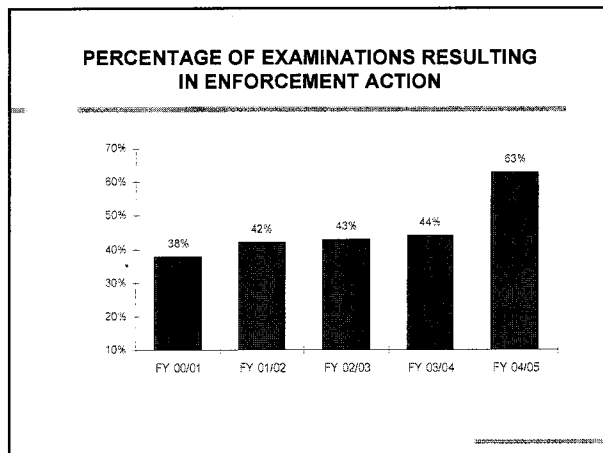
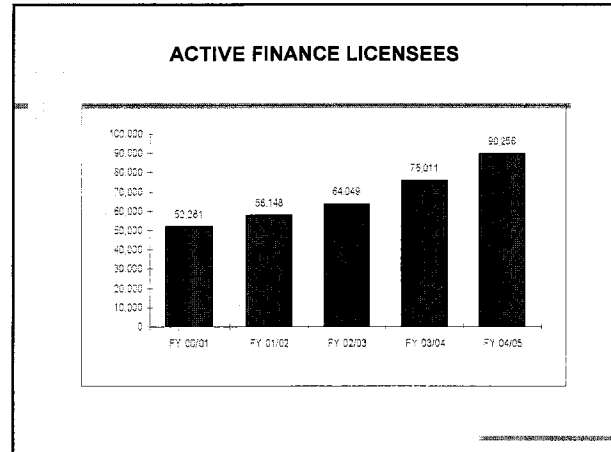
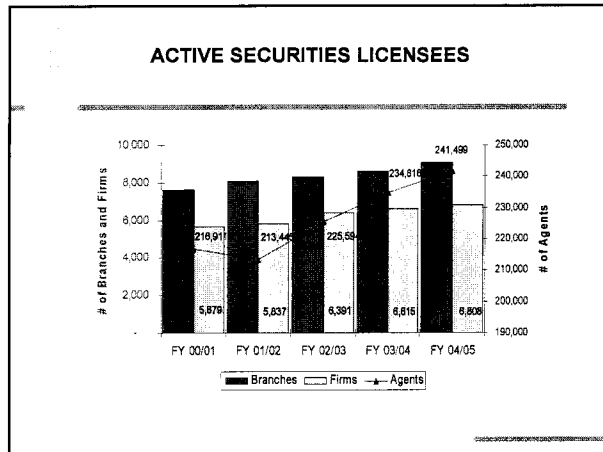
Additional regulatory responsibility

- Home improvement sellers
- Consumer finance companies
- Collection agencies
- Motor vehicle lenders
- Sales finance companies

Totalling over 13,000 active licensees

APPLICATIONS APPROVED COMPARE TO STAFF





Financial Investigations

Established as a Criminal Justice Agency to:

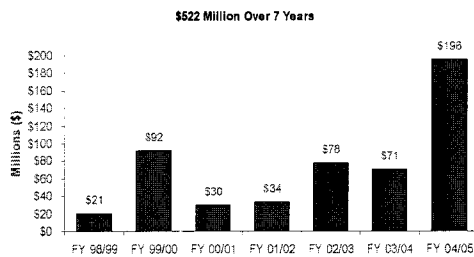
- Conduct financial investigations
- Prepare, present and assist in criminal case prosecution (i.e., Attorney General, Statewide Prosecutor, Local State Attorneys, US Attorney's Office, and local & federal law enforcement agencies)

Types of investigations:

- Banking
- Finance
- Money Transmitter
- Mortgages
- Securities

Currently, 366 open investigations

VICTIM RESTITUTION



Office of General Counsel

Office has civil and administrative authority

- ✦ Provide legal advice and counsel on regulatory matters
- ✦ Defend challenges to regulatory decisions
- ✦ Litigate cases of violations of banking, securities, finance and money transmitter statutes
- ✦ Provide interpretive opinions related to statutory and rule authority, including legal opinions and declaratory statements
- ✦ Promulgate administrative rules and litigate rule challenges
- ✦ Issue final orders

Licensing Bill

The Office licenses over 380,000 individuals and businesses in the areas of securities and finance. In the upcoming regular session, our Office will be seeking to modernize our licensing processes in these areas to further reduce the volume of paperwork received each year and streamline processes. The industries affected include: mortgage brokers and lenders, consumer finance companies, retail installment sellers, money transmitters, and securities firms.

Licensing Bill

- ✦ **REQUIRES ELECTRONIC FILING OF FORMS AND FEES**
- ✦ **OUTSOURCES MORTGAGE BROKER TEST**
- ✦ **REVISES DEFINITION OF SECURITIES "BRANCH OFFICE" TO CONFORM TO FEDERAL STANDARD**
- ✦ **ADDRESSES IDENTIFY THEFT ISSUES**
- ✦ **STREAMLINES PROCESSES**

FEDC Presentation on the Economic Development Transportation Fund

By Ted Clem, Chairman FEDC
Executive Director, Bay County Economic Development Alliance

Introduction of FEDC

The Florida Economic Development Council is a statewide non-profit association composed of 460 professional members from the economic development community. Our association's mission is to provide leadership and vision to advance economic development in Florida and to enhance the professionalism of its diverse membership.

FEDC has two main priorities in this upcoming legislative session: extending the exemption from Florida Sunshine statutes for qualified economic development projects, and increasing the appropriation from the Transportation Trust Fund into the Economic Development Transportation Fund to \$20 million.

Our purpose for being here today is to share with you the importance we place on Florida's Economic Development Transportation Fund. We believe the "Road Fund", as it is called in our trade lingo, is one of the most successful and important tools at our disposal in attracting new investment to the State of Florida from a diverse mix of high wage industry.

History of the "Road Fund"

This program is the oldest incentive program in Florida's arsenal of conservative incentives, designed to keep our state competitive in the increasingly difficult game of attracting high wage jobs. The program was first created in 1980 as a tool to make Florida's potential business sites more attractive by providing better public access to the site. Many other states offered similar programs, often resulting in a company not having to invest any additional money in infrastructure projects such as roadways, water, or sewer. The road fund was created to keep Florida's business sites in the competition.

The program was initially funded in 1980 at \$7 million. Since that time, the program has been continually funded at approximately \$10 million. Each year, the legislature makes an appropriation from the State Transportation Trust Fund.

While funding for the program has remained somewhat constant, the cost for paving roadways has not. Guidelines for the road fund cap the award for each project at \$2 million. In 1980 \$2 million would pave approximately **20,000 linear feet** of new roadway. Today, this same \$2 million will pave only **12,500 feet**.

In addition to the rising costs, project activity from qualified business prospects have also increased. Each year, Enterprise Florida and OTTED receive over 20 qualified applications for grants from the Road Fund. Obviously, at an annual appropriation of \$10 million, the money doesn't go very far.

The Florida Economic Development Council is convinced that rising costs and increased project activity have caused the Road Fund to be diluted to the point of ineffectiveness. Increasing the annual allocation from the Transportation Trust Fund to \$20 million will be a good start toward leveling the playing field with the many states we compete with on a daily basis.

Is the Road Fund program successful?

From July 1, 1999 to June 30, 2005 (source OTTED)

- 120 road fund projects approved
- 24,212 projected new jobs
- 9,895 retained jobs

From Fiscal year 2004-2005 (source EFI)

- 14 approved projects
- 3,805 jobs created or retained
- Average wage of \$37,051
- Nearly \$300 million in capital investment made by the company, or \$26 per \$1 EDTF award.

Recent Sample Projects and How the Road Fund Made a Difference

Family Dollar- Jackson County-Rural Area of Critical Economic Concern-REDI Community- Enterprise Zone

- There was no paved access to the property on which the company proposed to construct their facility. The company needed a front access road for employee entrance and a rear entrance for truck traffic.
- This distribution center created 500 jobs and made a capital investment of \$55m.

Eastern Ribbon & Roll, Inc.-Pasco County

- This project is the construction of deceleration, acceleration, and turning lanes from Gunn Highway and Interlaken Road into the project site.
- This manufacturer of carbon paper and inked ribbon retained 69 jobs, created 34 new jobs and invested \$4.5m.

New Millennium Building Systems, LLC- Columbia County- Rural

- In order to alleviate the transportation impediment, Columbia County paved a road to the project site and improved the intersection. The county contributed the right-of-way at a cost of \$300,000 and worked with CSX to fund a rail spur.
- This manufacturer of sheet metal work created 400 new to Florida jobs and invested \$40m.

Ocean Design, Inc.-Volusia County

- This EDTF project constructed a new roadway to the project site which opened the entire industrial/commercial park to other tenants. The project also included construction of turn lanes and deceleration improvements to allow safe ingress and egress during peak traffic hours. In addition to the road fund award, the County contributed approximately \$300,000 to the road project.
- This manufacturer of submersible fiber optic & electronic connectors retained 186 jobs and generated a capital investment of \$7m.

Conclusion

The Florida Economic Development Council believes the “Road Fund” is a valuable incentive tool for economic development. It has been proven time and again to be effective in leveling the playing field with other states in which we compete. However, due to increased construction costs and project demand, the State of Florida needs more funding for this program to continue its success. FEDC encourages the Florida Legislature to approve funding for the “Road Fund” at \$20 million annually.

FEDC thanks this committee for its support of our economic development priorities in years past. Your efforts have helped to improve Florida’s business climate and have given local and state economic developers the tools we need to successfully promote the state as a quality business location.